should proceed to consider these resolutions in the order in which they stand; and I hope the Senate will concur with me in that opinion.

Mr. TURNEY. I made my motion, sir, because, if the Senate dispose of the motion of the senator from New Hampshire favorably, is seems to me we shall put an end to the whole question. I do not see what further we shall have to do with the report and resolution of the committee. The resignation of General Shields has been received; there is now a vacancy in the representation of the State of Illinois on this floor, as will appear by an examination of the journal, and why, then, should we stand before the public as a Senate passing a resolution to vacate a seat which is already vacated? It appears to me to be perfectly useless, therefore, to take up the resolution and the report of the committee for any purpose whatever. My object is to take up a resolution, which is a usual one when a vacancy occurs in this body, to notify the executive of the State of the fact that there is such a vacancy, whether that vacancy has been occasioned by ejection, resignation, or by death. The motion of the senator from New Hampshire proposes to give that notice, and that motion I desire the Senate to take up for consideration. I cannot see why the senator from Wisconsin desires to go further than that. Surely, there can be nothing personal to prompt the taking up of the report of the committee and acting upon it. There is nobody here claiming a seat which has been vacated, and I should think there could be no difference of opinion as to the course which it is proper to pursue.

Mr. FOOTE. I must confess, sir, that I participate very decidedly in the feelings of surprise expressed by the senator from Tennessee PMr. Turney] that there should be any opposition to a motion certainly dictated by generous feelings, but as much, in my opinion, prompted by sound judgment as by generous feelings. Surely, sir, this motion must be held to have precedence over all other motions, because it is based upon circ

over the case before them, that they will dismiss the parties from the court at once.

Now, that is the case here, decidedly. We had jurisdiction over the case, it is true, at one time. We lost it by the resignation of the party concerned. The litingant, the party instituting the suit before us, the plaintiff, claimant, or by whatever name you may call him, has dismissed the suit, as he had a right to do. And shall we not, under such circumstances, when we have lost jurisdiction in the matter, pursue the course which not only our duty as senators requires us to pursue, but which coortesy and generous feeling and all magnanimity imperiously demand that we shall pursue? Unless, indeed, there are persons—I would not intimate that there are any such persons here—but unless there are persons who, feeling that there is some little chance of making a victim, and feeling that the talons of the vulture have been through into that victim, are unwilling to let go the hold that has thus been obtained until full martydom shall have been consummated.

Mr. WALKER. I view this matter in a different point of view from that which has been thus considered by the

from that which has been thus considered by the from Mississippi, [Mr. Foorn.] I do not know in he would allude as being the vulture who has his talons in the victim, nor does it disturb me

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fastened his talons in the victim, nor does it disturb me greatly to know.

Mr. FOOTE. Will my honorable friend allow me? I thought I spoke very explicitly. I thought he would be wholly undisturbed. It may be that I spoke a little more strongly than I intended. But I thought I distinctly said that I made no allusion to any senator here. Had there been such an allusion, I presume it would have more or less discomposed him; but, if he has the least impression that I intended any allusion to him, I will assure him that I did not intend the most distant allusion to my friend from Wisconsin.

Mr. WALKER. I hope not, sir; and I certainly be lieve not, now. But I will leave it to his consideration whether there has been anything in this matter, either upon my own part or upon the part of any other senator, each as to warrant the use of a figure of speech which each as to warrant the use of a figure of speech which is the speed of the property in the proceed of lives, and the liberty of thought of the process of the united States should be a product and its constitution requires that a judge; are his acts invalid. The constitution requires that a judge shall be a citizen; but suppose the office to be filled by an alien, and the tries suits involving militions of property, hundreds of lives, and the liberty of thought of the process of the process of the process of the process of the united States over and over again, in regard to exceptive, ministerial, and judges of the United States should be accurate and confirmed by the Executive, and other three such as the submitted of the process of the United States should be accurate and confirmed by the Executive, and other three process of the United States should be accurate and confirmed by the Executive, and other three process of the United States should be accurate and confirmed by the Executive and other three process of the United States should be ac

our courts and of the deliberative tribunals of Christen-dom.

But, sir, there is a vacancy now which is created by virtue of James Shields's resignation, and all that we

senator from Wisconsin as to the position on this subject which he occupies. I thought, when I acquiesced in his amendment yesterday, that he maintained that the election was not void.

Mr. WALKER. That subject is not now before the Senate. I was supposing, in the remarks I made, that the amendment offered by the senator from South Carolina [Mr. Calhous] was now to be voted upon, and that we were about to declare that his election to the Senate of the United States was void from the beginning; and that is the subject now before the Senate.

Mr. HALE. I desire to say a few words in explanation of the motives that induced me to submit this resolution. The efforts of those who oppose the taking up and passage of this resolution appear not to have reference to what we have done, or to what we ought to do; but it seems that, in the abundance of their wisdom, it recomes necessary to pass some sort of resolution to intruct the governor of Illinois in his, duty, and the State system of the subject of use of those who oppose the taking up and passage of this resolution appear not to have reference to what we have done, or to what we ought to do; but it seems that, in the abundance of their wisdom, it recomes necessary to pass some sort of resolution to intruct the governor of Illinois in his, duty, and the State system of the little generosity for other legislators—considing that all the wisdom of the iam is not centred in the Senate, and that the good people of Illinois in the senator of the Carolina of the Carolina of the Carolina of the Carolina of the constitution of the United States. How were vacancies exist by death, resignation, or other where election to the Executive thereof may make temporary appointments until the next meeting of the Executive thereof may may be the Executive thereof may make the provision, intended to keep this body full, and to preserve to each of the States its full representation, I must be permitted to say, without committing myself to definitively upon the question, that I have not see

whether we declare General Shield's title to a seat null and void from the beginning, or whether we simply send a notification of the resignation of General Shields to the governor of Illinois. If it makes no difference, then I ask the Senate whether it would not be more in accordance with the feelings of courtesy, and be less likely to wound the feelings of the estimable individual who lately occupied a seat here, to simply send a notification to the governor of Illinois stating his resignation?

Mr. BADGER. If the senator from Louisiana will allow me, I would inform him that what I did say on this point was, and I repeat it now, that, whether the resolution presented by the committee was adopted, or the resignation of Gen. Shields accepted, nothing in the end is gained one way or the other for Gen. Shields; but that the original objection would stand, with precisely the same force, at the next session of Congress as it stands now. I think there is a very material difference in other respects, considering one course right and the other wrong.

Mr. DOWNS. So I understood the honorable senator I ask of him and the Senate why proceed further in this matter? Are we come here to turn this Senate into a debating society, and simply to discuss questions, when those discussions can have no practical effect? 'think not, sir. I think the Senate of the United States have no power to act in this manner. What is their power? It is power simply to judge whether a man returned to this Senate is qualified to take his scat here or not. No such question is now before the Senate. We have no power to go further in this matter, or to enter into discussion, or give a decision upon a question that should be decided by the Executive or legislature of the State of Illinois. If there is any difficulty in the election of another senator, it will be time enough to solve that difficulty and judge of his qualifications when he applies for a seat in this body. We are sitting here now discussing a question of power to be exercised by the legislative authorities of Illinois; a question with which we have no effect, because we have no power. As has been said, our powers are analogous to those of a court, and anguments presented in a court are not considered to be ording to do whatsoever, and a decision upon which can said, our powers are analogous to those of a court, as a seem of the constitution was therefore necessary to give the chief to any weight when they travel out of the proper course. What would we think of a criminal law, and giving its decision upon it? And would that decision is criminal law, and giving its decision upon it? And would that decision is regarded as binding in any practical case of a similar character? Sir, it would be regarded as of no more regarded as ob linding effect in relation to its future action. I understand that the refuse the resignation is but if we have no power to refuse giving such a nothication, what right have we to refuse the resignation of a member of this body?

Mr. DOWNS. I am asked how a resignation can be tendered to this body?

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Mr. DOWNS. I am asked how a resignation to the constitution of the constitution of the constitution of the case of Mr. Gallatia: "That the election of James Shields to be a senator of the United States is not inquired particularly into the subject; I take it for granted that what is sual and customary must have sone of the United States is not inquired particularly into the subject; I take it for granted that what is sual and customary must have sone of the United States is not inquired particularly into the subject; I take it for granted that what is sual and customary must have sone at the precision of the United States in the case of Mr. Cannot but consider that it will be regarded as the had not been a citizen of the United States in the case of Mr. Cannot hut consider that it will be regarded as the time of the precision of the very constitution of the United States in the case of Mr. Cannot but consider that it will be regarded as that time it would have been sufficient. That was the constitution by the committee, it was the resolution was therefore n

to thus makes it necessary that the judgment of the Senate is also accept the resignation, that I feel constrained to say a few words in regard to it. I view the tender of resignation in the performance of what was usually done when we cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue cannot turn the claimant out, because he has revenue and the signed; he is already out. This, then, is an abstract question; and all that is necessary to be done is to into me very strange that the Senate should be engaged in the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which does not demand control the discussion of a subject which demand control the discussion of the Senate that the subject of control the di day is the evil thereof. I do not wish that the Senate should be detained now in debating a great constitutional question: and if there be no senator who now wishes to address the Senate, I will close my few remarks by a motion to lay the whole question upon the table. The senator may resign to his own State; and for us to take action upon the resolution of the senator from New Hampshire does seem to me to be entirely superfluous and improper.

Mr. CALHOUN. I suppose, if this question be decided in the affirmative, there will still be before the Senate the resolution reported by the committee?

Mr. DAVIS. My motion is to lay the whole upon the table. I desire to say a few words.

PRESIDING OFFICER. The oaly thing that can be subject to the senator's motion is, the motion to consider the resolution of the senator from New Hampshire.

Mr. DAVIS. Then I will make the same motion in reference to the resolution, when it comes up.

Mr. DOUGLAS asked for the yeas and mays upon the motion of the senator from Mississippi.

They were ordered, and, being taken, were—yeas 20, mays 15.

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order. A motion was therefore necessary to give the other the preference. The resolution is now before the

And the second properties of the second proper